



DEP FACT SHEET

Public Participation in the Licensing Process

issued: November 2004

contact: (800) 452-1942

The Department of Environmental Protection (DEP) evaluates license applications for many different activities that affect Maine's environment. Individuals, organizations, and legal entities may participate during the processing of these applications. Together with applicable statutory and regulatory provisions referenced below, this Information Sheet describes their rights for participating in the DEP's evaluation of license applications. DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters (Chapter 2)*, 06-096 CMR 2, provides regulatory guidance on the licensing process and opportunities for public participation in that process. This Information Sheet does not address other specific provisions that apply to proceedings before the Board of Environmental Protection (Board) when it assumes jurisdiction over an application.

PUBLIC ACCESS TO INFORMATION. Other than records made confidential by law, all license application materials are available for review and copying at DEP offices under Maine's *Freedom of Access Law*, 1 M.R.S.A. §§ 401-410.

PUBLIC NOTICE. Maine law requires public notice for most types of applications. Public notice means that the prospective applicant must make known their intent to submit an application to the DEP. If you are interested in following or participating in the licensing decision process, you are responsible for acting after receiving notice of an application. When a prospective applicant is required to provide public notice of an application, two types of notice may be required:

Application Filing. If public notice is required, abutters to the project location receive notice in their mail before an application is submitted to the DEP. The exception to general requirements for mailing notice to project abutters is submittal of an air emissions renewal or minor revision application. In such instances, public notice is only provided by publication. According to Chapter 2, an abutter is someone who owns property that is both adjoining and within one mile of the delineated project boundary, including owners of property directly across a public or private right of way. Notice is also published in newspapers serving the area where the project is proposed to be located.

Public Informational Meetings. Prospective applicants are required to hold an informational meeting prior to submitting certain types of applications. The public informational meeting is intended to inform the public about an anticipated project and provide an opportunity for the applicant to receive feedback from the public on the project. Members of the public may ask questions at such a meeting. Anyone asking a question should be aware that answers may not be available during the meeting, but it is important to ask questions to identify important issues and concerns at the earliest possible opportunity. Abutters to the anticipated project location receive notice of the meeting time and location in their mail, and notice is also published in newspapers serving the area where the project is proposed to be located. It is the prospective applicant's responsibility to provide notice of the public informational meeting, and to demonstrate to the DEP that one has been held, if required. A local planning board meeting may serve as a public informational meeting provided that these notice requirements are met. DEP does not usually attend informational meetings, as they are the applicant's opportunity to gain direct feedback on potential environmental issues from the community local to the project.

PUBLIC INVOLVEMENT IN THE APPLICATION PROCESS. Anyone may submit written comments, including technical information, at any time during the processing of an application. It is to your benefit to submit information early in the licensing process so that it may be considered to the maximum extent. In addition to submitting comments, any person may request to be considered as an "interested person" for an application pending

before the DEP. If you request to be considered an interested person, you may choose to participate in the licensing process in some or all of the following ways:

Public Hearing Requests. You may request that a public hearing be held on a filed application. This request must be received by DEP within 20 calendar days of an application's being accepted as complete for processing. You may contact DEP to find out when this 20-day window for hearing requests expires. Such a request must satisfy the requirements found in Section 7 of Chapter 2. The Commissioner will typically order that a hearing be held on an application when credible conflicting technical information exists regarding a licensing criterion.

Board Jurisdiction Requests. You may request that the Board assume jurisdiction over an application within 20 calendar days of an application's being accepted as complete for processing. This request must satisfy Section 17 of Chapter 2.

Maximum participation. Participating in the licensing process to the maximum extent possible requires that you submit a written request stating your desire to receive material related to the application. It is your responsibility as an interested person to obtain a copy of the application directly from an applicant, or by photocopying the application at the DEP office where the application is being processed. As an interested person, you will receive copies of additional information submitted to the DEP by the applicant. Once the DEP receives your request, you will receive direct notice of public informational, pre-application, and pre-submission meetings, and public hearings to the extent they occur after your request is made.

Pre-application and Pre-submission Meetings. DEP often meets with potential applicants to identify regulatory and processing issues that need to be considered. If you become an interested person for an application and wish to attend these meetings, you should expect only to observe the meeting because public comments are not received at this point in the licensing process. As a practical matter, interested persons will not usually attend pre-application and pre-submission meetings because they usually occur before notice of an application submittal is published. The earliest opportunity for notice of such meetings is likely to come at a public informational meeting, which is not required for most applications.

Comments on a Draft Order. As an interested person, you will receive the Commissioner's draft licensing decision, or order, at least five (5) working days prior to final action. You may submit written comments on that draft decision within those five days. You will also receive reasonable notice of when the Commissioner anticipates issuing a final decision on the draft order.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact DEP's Director of Policy Services at (207) 287-2811. If you would like information or have questions about a specific application pending or anticipated at the DEP, ask to be directed to the appropriate Bureau or call directly to the Bureau for that application:

Bureau of Air Quality, Licensing Coordinator, (207) 287-2437

Bureau of Remediation and Waste Management, Licensing Coordinator, (207) 287-2651

Bureau of Land and Water Quality, Licensing Coordinator, (207) 287-7691

All DEP rules and laws are available via the Internet by following the links provided at:
<http://www.state.me.us/dep/permits.htm#law>

NOTE: The DEP provides this Fact Sheet for general guidance only; it is not intended for use as a legal reference. Maine law governs an interested person's rights.
